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**At Wisdom's Table:
How Narrative Shapes the Biblical Food Laws and their Social Function**

Abstract: The food laws of Lev 11:3-23 and Deut 14:3-20 are one of the great enigmas of biblical law. To understand them better I propose we see the food laws as a series of 'narrative paradigms' aimed at a high-context society in which information is shared and internalised. This shared social knowledge raises the question of how the common environment of ancient Israel would make the categories intuitively clear. The narrative paradigms make sense because they reflect day-to-day engagement with the environment. The paradigm cases identify certain characteristics of a taxonomic group, which are then negated. The effect is to convey a complex body of knowledge about what can and cannot be eaten in an economical, unambiguous and practical manner. The laws build on each other, enabling the audience to accumulate knowledge as they progress through the different categories. In this way, the very construction of the categories clean and unclean – and hence the structure and presentation of the laws themselves – is shaped by practical wisdom. This is consistent with self-executing narrative rules elsewhere in biblical law. This reanalysis helps us to understand both the compositional strategy of the food laws and their social function.

At Wisdom's Table:

How Narrative Shapes the Biblical Food Laws and their Social Function

The food laws of Lev 11:3-23 and Deut 14:3-20 are one of the great enigmas of biblical law. Prodigious efforts have been made since at least Philo's time to identify rationales that might provide the basis for the choice of calling some creatures clean and others unclean.¹ Yet for all the massive primary and secondary discussion, no conclusive explanation has so far emerged.² To aid our understanding of the mode by which the laws are expressed I propose that we see the food laws as a series of 'narrative paradigms.'³ I argue that this reanalysis helps us to understand both the compositional

I am grateful to Professor Bernard Jackson (Liverpool Hope), Professor Julian Rivers (Bristol) and *JBL*'s anonymous reviewers for their constructive engagement with, and comments upon, this paper. Biblical quotations are from the English Standard Version translation of the Holy Bible, unless otherwise noted.

¹ Philo of Alexandria, trans. F. H. Colson, *The Special Laws*, The Loeb Classical Library, vol. viii, (Cambridge, Mass.: Harvard University Press, 1939), 69-81. I am aware that some scholars (including, notably, Jacob Milgrom) favour the terms 'pure' and 'impure'; however, I have used the language of 'clean' and 'unclean' since this is preferred by most commentators and scholars, including most of those with whom I interact in this article.

² For an overview see Jiri Moskala, "Categorisation and evaluation of different kinds of interpretation of the laws of clean and unclean animals in Leviticus 11," *BR* 2001 66, 5-41.

³ "Narrative paradigm" is a technical term grounded in a variety of semiotic disciplines. It refers to a form of sense-making, according to which the meaning of speech is evoked

strategy of the food laws and their social function.⁴ This reading contends that the biblical food laws identify typical or paradigmatic cases in a ‘high-context’ society where information is shared and internalised.⁵ This shared social knowledge raises the question of how the common environment of ancient Israel would make the categories of clean and unclean intuitively clear. I argue that the very construction of the categories clean and unclean – and hence the structure and presentation of the laws themselves – is shaped by practical wisdom, parallels to which can be found elsewhere in biblical law.⁶

by the narrative images of typical situations within known social contexts (Bernard S. Jackson, *Wisdom-Laws: A Study of the Mishpatim of Exodus 21:1-22:16* (Oxford: Oxford University Press, 2006), 24-25). It is discussed further in, I, below.

⁴ This is different from the question of what *purpose* the laws served in the context of the YHWH/Israel covenant. Although I share the common view that the taxonomy of clean and unclean animals maps onto a division between Israel/non-Israel (Jacob Milgrom, *Leviticus 1-16* (Anchor Bible Commentary; New York: Doubleday, 1991), 724-725, and cf. Lev. 20:24b-26), nothing in the present article depends on this.

⁵ In anthropology, a ‘high-context’ society or culture is one in which much is assumed or left unsaid and where, accordingly, the choice of words used is highly significant in communicating to a presumed ‘in-group.’ By contrast, in a ‘low-context’ society or culture the communicator needs to be much more explicit.

⁶ Practical wisdom, in the context of biblical law, may be taken to refer to a popular, self-executing approach to law in which dispute-resolution is aided by ‘rules of thumb’ and a somewhat pragmatic, ‘rough and ready’ approach to legal decision-making. For

I. A NARRATIVE APPROACH TO BIBLICAL LAW

In doing so I am building on the work of Bernard S. Jackson who has argued, persuasively in my view, that biblical law is best understood in “narrative” rather than “semantic” terms.⁷ The dominant paradigm of “conventional meaning” today is “literal meaning,” which is closely tied, as its name suggests, to writing.⁸ A literal or “semantic” reading of any rule sees it as covering all cases that may be subsumed under the meaning of its words.

However, there is another way of thinking about language and legal rules and this is to adopt a “narrative” approach. “Narrative” meaning consists of typical stories or images that are evoked by the use of words. It arises in the context of a group that shares the social knowledge necessary to evoke those images, without needing to “spell them out.”⁹ Whereas a semantic interpretation asks, ‘what is the literal meaning of the words?’ a narrative approach asks, ‘what typical situations do the words of this rule evoke?’ This means that the narrative image represents the ‘core’ of the message: thus, the further one departs from the typical case, the less sure we can be that the message is intended

examples, see Jackson, *Wisdom-Laws*, 20, 31, 239, 366, 403, 478 and see IV, below, for further discussion.

⁷ Bernard S. Jackson, *Studies in the Semiotics of Biblical Law* (JSOTSS 314; Sheffield: Sheffield Academic Press, 2000), 70-92 and Jackson, *Wisdom-Laws*, *passim*.

⁸ Jackson, *Studies*, 14.

⁹ *Ibid.*, 45.

to apply or would be regarded as applicable by the audience.¹⁰ Although Jackson himself does not make this claim, the advantage of his approach is that it takes seriously the fact that the biblical laws function in a 'high-context' society where "most of the information or message... is either in the physical context or internalised in the person, while very little is in the coded, explicit transmitted part of the message."¹¹ Jackson's theory has been developed in relation to a specific part of the biblical legal collections, namely, the 'Covenant Code'; whether it applies more widely must be addressed on an individual basis. This raises the question of whether the biblical food laws should be regarded as 'narrative paradigms' or 'paradigm cases.' It is not an idle question. One of the most difficult aspects of the food laws has traditionally been the formulation of Deut 14:19-20 which states:

"And all winged insects are unclean for you; they shall not be eaten.
All clean winged things you may eat."

Might the historical difficulties with reading this text have something to do with the projection of an anachronistic 'semantic' reading? If so, might a 'narrative' reading be more fruitful? It is certainly the case that verses 19-20 are problematic from a semantic perspective; thus, Jacob Milgrom describes them as a "cryptic generalisation."¹² Worse, as many have noted, the verses seem to contradict each other. Verse 19 apparently

¹⁰ Bernard S. Jackson, "Modelling biblical law," *Chicago-Kent Law Review* 70 (1995):1745-1827, here 1767-1768.

¹¹ E. T. Hall, *Beyond Culture* (Garden City, NY: Doubleday, 1976), 91-92.

¹² Milgrom, *Leviticus 1-16*, 699.

makes a blanket statement banning all “winged insects,” without qualification, as being “unclean.” However, verse 20 goes straight on to say that there are “winged things” which are “clean,” which is not what verse 19 explicitly says. From a modern, semantic, point of view, it looks like bad draftsmanship.

Gordon McConville thinks that Deut. 14:20 presupposes “some body of assumed knowledge such as Lev 11:21-22”¹³ whilst Richard D. Nelson states that Deut 14:20 “can *only* be understood in light of Lev 11:20-23, where it is clear that edible insects (locusts) are meant”¹⁴ (emphasis added). Such claims are based on the assumption that the food laws in Leviticus are prior to those in Deuteronomy.¹⁵ However, even if we accept that

¹³ Gordon McConville, (*Deuteronomy*, AOTC; Leicester: Apollos, 2002), 244.

¹⁴ Richard D. Nelson, *Deuteronomy* (OTL; Louisville: Westminster John Knox Press, 2002), 180.

¹⁵ The idea of direct literary dependence (in either direction) contrasts with the dominant view among scholars that Lev 11:2-32 and Deut 14:3-20 represent separate developments of a common source (e.g. S. R. Driver, *Deuteronomy* (ICC; Edinburgh: T&T Clark, 1901), 163-164; John E. Hartley (WBC 4; Waco: Word Books, 1992), 156-157; Walter C. Houston, *Purity and Monotheism* (JSOTSS 140; Sheffield: JSOT Press, 1993), 63-65; Thomas Kazen, *Emotions in Biblical Law* (HBM 36; Sheffield: Sheffield Phoenix Press, 2011), 77; Naphtali S. Meshel, “Pure, Impure, Permitted, Prohibited: A Study of Classification Systems in P” in *Perspectives on Purity and Purification in the Bible* (eds. Baruch J. Schwartz *et al.*; London: T&T Clark, 2008, 32-42), here 33 and Christophe Nihan, “The laws about clean and unclean animals in Leviticus and Deuteronomy and their place in the formation of the Pentateuch,” in *The Pentateuch: International Perspectives on Current Research* (eds. Thomas B. Dozeman *et al.* FAT 78. Tübingen:

Deuteronomy is later, it does not follow that just because *we* presume that Lev 11:21-22 was necessary to fill in the detail of Deut 14:20, this was also true for the audience of Deut 14:20. Indeed, the assumption that a particular law could *only* have made sense to the original audience *if* it was explicitly spelt out in another piece of legislation is a classic example of a semantic approach. We can at least raise the possibility that Deut 14:20 could make (better) sense when read narratively. In any case, it cannot be sufficient to locate the answer to the problem of Deut. 14:20 by appealing to Leviticus because similar problems are found in Lev 11 itself! For example, it is frequently noted that Lev 11:13-19 “fails to offer any criterion of edibility”¹⁶ in regard to birds, which is to concede that Lev 11 can be as “elliptical” as Deut 14:20. This is all part of the reason for needing to move beyond a semantic reading of these texts.

Certainly, the picture changes when the text is viewed from a narrative perspective. If the classification of clean and unclean insects in Lev 11:20-23 and Deut 14:19-20 is constructed as narrative typifications; *viz.* as typical images that make sense according to a shared body of social knowledge, then the typical image of the ‘unclean winged insect’ is the flightless insect that crawls “on all fours” whereas the stereotypical picture of the ‘clean winged insect’ is one that flies in the air. There is therefore no difficulty in

Mohr Siebeck, 2011), 401-432, here 431, though the latter’s assumptions about what the ‘original’ classification *should* have comprised are inevitably speculative). This dominant view is itself coming under increasing challenge with Nihan himself noting (at 402-404) recent suggestions of direct literary dependence between Lev 11 and Deut 14.

¹⁶ Houston, *Purity*, 43.

making sense of the provisions. The laws make perfect sense because the relevant background social knowledge is assumed by the legislator.

Lest critics find this unpersuasive I need only point out there is a clear parallel elsewhere in biblical law. Exod 22:2-3 (MT 22:1-2), concerns the liability of a householder for using force against a burglar:

If the thief is seized while tunnelling [through or under a wall for housebreaking] and he is beaten to death [by the householder], there is no bloodguilt in his case [that is, on the part of the householder]. If the sun has risen on him, there is bloodguilt in that case [on the part of the householder].

If we take a modern semantic approach to this case, then the drafting of verses 2 and 3 seems odd and contradictory. The first part of the rule apparently gives carte blanche to the householder who kills an intruder at any time of day or night, while the second part of the rule denies self-help if the break-in occurs during the day. However, the text makes perfect sense if we take a narrative approach and ask “what is the typical situation evoked by the words “tunnelling thief?” Even if we could not make the appropriate connections ourselves, we know from elsewhere in the biblical texts that thieves typically tunnellled into other people’s houses at night (e.g. Job 24:14–16). In other words, from a narrative perspective, it is clear that the typical situation evoked by the words in Exodus 22:2 (MT 22:1) is one in which the thief tunnels at night. There is therefore no tension with the subsequent part of the rule which contrasts the legitimate action of the householder at night with the illegitimate action of the householder by

day.¹⁷ Just as the audience of Exod 22:2 supplies to the text “If the thief is seized while tunnelling *at night*...”, so the audience of Deut 14:19 supplies “... all winged *and flightless* insects are unclean....” There is thus a precedent for reading Deut 14:19-20 narratively.

We thus proceed to the next step of our hypothesis. If I am on the right lines in saying that a narrative reading can make better sense of one part of the biblical food laws, the question arises whether it works for all the other categories as well. This is the focus of the next section.

II. A NARRATIVE APPROACH TO THE BIBLICAL FOOD LAWS

Scholars have occasionally noted that some verses appear to contain “principles” or “criteria” whilst other verses have “examples” and “lists.”¹⁸ However, there has not been much reflection on whether these terms adequately describe the legal reasoning at work in the texts, or even how these different elements are synthesised to produce a certain kind of sense. In my view, this is one of the most interesting features of Lev 11:3-

¹⁷ Jackson, *Studies*, 75-81.

¹⁸ E.g. Hartley (at 153) characterises different aspects of the composition of Lev 11:2-23 as “principles” (vv. 2b-8); “general statements without any examples” (vv. 9-12); a lack of principles (vv. 13-19) and an “initial statement” followed by “an exception” (vv. 20-23). Others such as Martin Noth observe that various categories are “differently phrased” but do not explore the matter (e.g. *Leviticus*, London: SCM Press, 1977, 93).

23 and Deut 14:3-20.¹⁹ As has frequently been noted, both Lev 11:3-23 and Deut 14:3-20 cover similar ground.²⁰ But whilst the substantive similarities between the two documents are frequently recognised, it is less commonly observed that the texts share remarkable structural similarities. In both documents some information is explicitly communicated about the creatures whilst other information is taken for granted (see Table 1, below).

INSERT TABLE 1 HERE

Of course, these structural similarities could be explained on purely source critical grounds with one text being a fairly straightforward copy of the other.²¹ Yet even if this is the case, we still need to account for the structure of whatever is assumed to be the prior text. Thus, despite the importance of the literary origins of the food laws, my

¹⁹ Clearly, these sections are embedded in more complex literary structures, but for reasons of space I will concentrate on these verses.

²⁰ Though there remains uncertainty about identifying some of the creatures (Gerhard Von Rad, *Deuteronomy*, London: SCM, 1966, 102) and cf. the summary given by Houston, *Purity*, 29-32. For recent summaries of possible literary histories see Thomas Hieke (*Leviticus 1-15*, HTKAT Freiburg: Herder, 2014), 416-417 and Christophe Nihan, “The laws about clean and unclean animals”, 401-432. Nihan assumes the origins of the food laws lay in exile; however exile was the hardly the only historical situation or social setting that could have produced a concern for ethnic markers by Jews.

²¹ E.g. Milgrom, *Leviticus 1-16*, 698-704.

purpose in this article is to elucidate the structural and compositional significance of the food laws in respect of their final form.

My proposal is that we can understand the food laws better if we see them as examples of 'paradigm cases.'²² We will test this hypothesis by reference to each category in turn.

(i) Land animals

First, the land animals of Lev 11:3-8 and Deut 14:4-8. These have presented particular difficulties for commentators. For example, Richard D. Nelson complains that the catalogue of unclean animals is not complete and ignores, for example, the "unclean ass" (Exod 34:20).²³ However, this is only problematic if one takes a modern, semantic, approach. Under a paradigmatic approach it hardly matters that the law is incomplete and that certain animals are not mentioned. Similarly, W. H. Bellinger Jr., in claiming that "the categorisation [of clean land animals] is probably not as clear as the text would suggest...."²⁴ assumes that this is so because it does not formulate matters in the manner of a modern legal rule. But we do not have to assume a lack of clarity. It might be the case that, on a narrative reading, the text is perfectly clear as to the scope of the paradigm.

²² Scholars occasionally characterise the criteria for identifying clean animals as a 'paradigm' or 'template.' This is some distance from identifying the laws as narrative paradigms or paradigm cases, as discussed in I above.

²³ Nelson, *Deuteronomy*, 180.

²⁴ W. H. Bellinger, Jr. *Leviticus and Numbers* (NIBC; Peabody: Hendrickson, 2001), 74.

In fact, both Lev 11:3 and Deut 14:6 explicitly tell us that the narrative paradigm, or typical image, of the clean animal is one that has split hooves and chews the cud; *viz.* an animal that eats grass. The question *why* this is the typical image of the clean animal is a separate matter which we will consider in III, below. Having established this image the next move is the negation of the paradigm case by means of a ‘binary opposition.’²⁵ Thus, animals which do not have cleft hooves *and* do not chew the cud are ‘unclean.’ Setting out an explicit paradigm of what is clean – which implies a paradigm of what is unclean – is highly efficient teaching. Nothing is explicitly said about the enormous category of animals which do not have cleft hooves *and* which do not chew the cud – reckoned to be about 90% of all species of Middle Eastern mammals²⁶ – because nothing needs to be said. It is implied social knowledge: the paradigm of the clean animal is simply flipped around. The creation of a narrative paradigm which is simply inverted means that an animal which belongs to one category can never belong to the other. The way in which the food laws are constructed thus provide complete clarity. In fact, it is precisely because the audience has already internalised the paradigm of the

²⁵ See Hunn, “Abominations,” 108. ‘Binary oppositions’ are a form of semantic relations. They refer to a pair of terms that are conventionally, and not necessarily logically, regarded as opposites (e.g. ‘black/white’; ‘day/night’ and ‘wet/dry’). Their construction is dependent on social context: it is this which determines whether the appropriate opposition of a ‘boy’ is a ‘girl’ or a ‘man.’ Binary oppositions are an important aspect of sense-making. As Jackson, *Wisdom-Laws* notes: “Classifications appear natural or intelligible where we have a correlation of normally associated binary oppositions...” (259).

²⁶ See Table 6 of Hunn, “Abominations,” 113.

unclean animal that the legislator can subsequently reel off examples of unclean animals, at verse 29, including the “mole rat” and the “mouse.” But they are there for illustration only. We do not need a list of the other 90% of unclean animals because the paradigm case of the clean animal has already done the work.²⁷ As a form of legal reasoning, it is remarkably effective.

What about land animals which either (a) chew the cud but don’t have hooves, or (b) have hooves but don’t chew the cud? This is addressed in Lev 11:4-8 and Deut 14:7-8. In terms of legal reasoning, it seems that these are deliberately presented as ‘hard cases.’²⁸ They are ‘half one thing and half another’ so their status cannot be deduced either from the explicit paradigm of what is clean or the implied paradigm of what is ‘unclean.’

²⁷ Despite Nelson’s concern regarding lack of completeness, this narrative reading strengthens and redefines his view (at 180) that the references to unclean animals in Deut 14:7-8 are “representative examples to show the reader how to apply the template of verse 6.” Kunin (2004:41) rightly spots that the permitted animals mentioned are “only examples of a more general class” though does not see this in terms of a narrative paradigm.

²⁸ Kunin (2004:41) comes close in seeing “[t]he lists of ambiguous examples... as examples of where to place difficult cases.” Interestingly Kunin’s comments regarding the anomaly in structuralist thought – here, where animals have one characteristic but not another – apply equally well to hard cases. Like anomalies, hard cases are not intrinsic. And just as different systems give rise to different types of anomaly, so different laws and forms of legal interpretation create different types of hard case (cf. Kunin, *ibid*).

Accordingly, Lev 11:4-7 and Deut 14:7-8 confirm that the clean animal must have *both* elements of the paradigm (i.e. hooves and chews the cud). If *one* element is missing, the paradigm is negated and the animal is regarded as unclean.²⁹ The use of hard cases thus reinforces the narrative paradigms of clean and unclean.

(ii) Aquatic creatures

Second, we turn to the aquatic creatures of Lev 11:9-12 and Deut 14:9-10. A semantic approach can be seen in Houston's claim that the sub-section on aquatic creatures is "highly redundant"³⁰ in *Leviticus*, presumably because of the lack of detail. Gerhard Von Rad sees the aquatic creatures, as with all the categories, as drawing on earlier "lists"³¹ and "catalogues" whilst Erhard S. Gerstenberger supposes that the redactor of Deut 14:9f lacked access to "more specific instructions"³² which, he implies, would have been necessary and desirable.

A narrative approach, on the other hand, works as follows. As with the land animals, Lev 11:9 and Deut 14:9 establish the paradigm of the clean aquatic creature: "Everything in the waters that has *fins and scales...*" (italics added). However, unlike the land animals,

²⁹ In Lev 11:4-7 and Deut 14:7-8 each element of the paradigm case of the clean animal is explicitly negated by the appropriate binary opposition (either "it chews the cud but does not part the hoof..."; Lev 11:6 = Deut 14:7 or "it parts the hoof and is cloven-footed but does not chew the cud..."; Lev 11:7 = Deut 14:8).

³⁰ Houston, *Purity*, 234-235.

³¹ Von Rad, *Deuteronomy*, 101.

³² Erhard S. Gerstenberger. *Leviticus*. (London: Westminster, 1993 tr. 1996), 137.

the clean paradigm is explicitly negated in Lev 11:10, 12 and Deut 14:10. The unclean aquatic creature is “anything in the seas or the rivers that *does not have fins and scales...*” (italics added; Lev 11:10).

What about the handling of hard cases, *viz.* aquatic creatures which have ‘scales but not fins’, or ‘fins but not scales’? We already know from the treatment of ‘half and half’ land animals that if one element is missing, the paradigm is negated and the creature is unclean. I suggest it is for this reason that nothing is said about hard cases here. The audience has already internalised this from what has been said about land animals. For this reason, the paradigm of the unclean aquatic creatures does not need to be articulated. The audience can work out the paradigm for themselves on the basis of the foregoing. As such it can be said to be a substantive implicit paradigm. The subsequent content of Lev 11:29-30 makes sense against this background. Lev 11:29-30 reels off a list of ‘half and half’ aquatic creatures, including “the great lizard of any kind, the gecko, the monitor lizard, the lizard, the sand lizard, and the chameleon” – all creatures that have scales (as fish do) but do not live in water.³³ The purpose of the list is to confirm what the audience has already been told, implicitly, that they are all ‘unclean.’

(iii) Birds

Third, the birds, as described in Lev 11:13-19 and Deut 14:11-18. Again, we may briefly note some of the semantic assumptions made by commentators. Thus Martin Noth says, of the clean birds: “Naturally they included *all* not in the list of the forbidden [birds]”

³³ Hunn, “Abominations,” 113.

(italics added),³⁴ an assumption shared by Thomas Hieke.³⁵ Similarly, Jeffrey H. Tigay states that it is generally presumed that all birds which are not listed as impure were permissible.³⁶ All claim that the lists in Lev 11:13-19 and Deut 14:11-18 are closed; that is, they only contain the listed birds, irrespective of the possibility of there being similar unclean birds which have yet to be considered by jurists. But why presume that the list of unclean birds is exhaustive? This assumption is only 'natural' on a semantic approach. Houston likewise assumes that the list "must be comprehensive, and therefore includes creatures that nobody who was not starving can have any mind to eat, such as hoopoes and bats!"³⁷ Again, this reading makes semantic assumptions, namely, that the law *must* be closed and exhaustive, even to the extent of including things which are irrelevant to people's diets. However, the idea that the lawgiver would include useless information is not in keeping with the economical style of *Torah*.

A narrative approach, once again, would read the texts differently. Unlike the aquatic creatures, there is no explicit paradigm of either the clean bird or the unclean bird. Instead, we are given a list of unclean birds in both Lev 11 and Deut 14. This presumes there is a shared background understanding of what counts as a clean and an unclean bird. This is especially clear in Deuteronomy 14:11, which states, "You may eat all clean

³⁴ Noth, *Leviticus*, 94.

³⁵ Hieke, *Leviticus*, 424.

³⁶ Tigay, *Deuteronomy* (Philadelphia: Jewish Publication Society, 1996), 139.

³⁷ Houston, *Purity*, 236. *Contra* Kunin (2004:86) who recognises that "the Deuteronomic text... is meant to establish a forbidden category, which is extendable to other flying animals."

birds.” It is another example of legal reasoning in a ‘high-context’ society – it simply assumes the audience knows what a clean bird is. Fortunately for us, we can deduce the image of the clean bird because it is simply opposed to the unclean bird. The clean bird is one that has feathers, flies, and eats what a bird normally eats (berries, insects and so on). What sets the norm here? One reason why the paradigm of the clean bird is implicit is because it has already been derived from the fact that the clean land animals are herbivorous. Herbivorous land animals set the norm for the (unarticulated) paradigm of the clean bird.

Thus, against Noth, Tigay and Houston, the lists in Lev 11:13-19 and Deut 14:11-18 may be said to contain representative illustrations of the unarticulated paradigm of the unclean bird. The ‘list’ is thus open and non-exhaustive. This means that if, for the sake of argument, the Israelites came across a new species of bird which was sufficiently similar to the unarticulated paradigm of the unclean bird, it would be regarded as unclean even though it is not expressly included in “the list.” In my view, Nelson is wrong to suggest that the list is for “rhetorical emphasis more than practical application.”³⁸ From a narrative perspective, the laws relating to birds are just as practical as the other categories because they educate the audience about what are typically to be regarded as clean and unclean creatures.

Houston³⁹ and Nelson⁴⁰ both object that the passage in Lev 11:13-19 fails to offer any criterion of edibility. Instead, they “only”⁴¹ provide a list of some kinds of bird that are

³⁸ Nelson, *Deuteronomy*, 180.

³⁹ Houston, *Purity*, 43.

not to be eaten. But from a narrative perspective there is nothing *only* about a list. This is because the list itself can be seen as supplying the criteria. It is the visual images summoned by the words in the list which evoke an implicit paradigm of the unclean bird.⁴² The list of unclean birds is thus a series of worked examples of an unarticulated paradigm case of the unclean bird,⁴³ viz., a bird that doesn't have feathers, or doesn't fly, or doesn't eat what birds normally eat.⁴⁴ The images thus confirm what the audience has already internalised. The dominant assumption is that if the birds eat what you don't eat then you can eat them. But if they eat what you can eat (i.e. land animals and fish) then you can't eat them. It is very simple because it is just the same test, flipped around. Once again, the laws are an extremely effective and efficient teaching tool.

It may be significant that the list of unclean birds, in both Lev 11 and Deut 14, begins with those birds that eat land animals because animals are the subject of the first category of creatures in both Lev 11:3-23 and Deut 14:3-20 (see (i), above). It then

⁴⁰ Nelson, *Deuteronomy*, 180.

⁴¹ Ibid.

⁴² *Contra* Houston, *Purity*, 236 who claims that we are *only* given information about birds because of an "impulse for comprehensiveness...."

⁴³ Although there remains some uncertainty regarding the identification of some birds in the list (see S. R. Driver, *A Critical and Exegetical commentary on Deuteronomy*, Edinburgh: T & T Clark, 1996, 162-163 and Houston, *Purity*, 43-46).

⁴⁴ It may be the case that the birds are actually hard cases in the sense that, although they have feathers and fly, they don't eat what clean birds eat, and so they negate one of the key characteristics.

moves on to birds which eat fish, because they are the subject of the second category (see (ii), above). We have already noted how the 'set-up' of prior blocks of material helps to structure later information (e.g. the handling of 'hard cases' and equating clean with 'herbivorous'). The ordering of the unclean birds would thus be a further example of this internal structuring.

The bat is presumably included, and placed last, because the absence of feathers, together with its live young, means it is visually farthest from the paradigm of the clean bird. Stereotypical images are affective and draw on a range of senses including, most importantly, sight. The bat negates different characteristics of the clean bird to others on the list because although the bat eats what clean birds eat, it looks nothing like them.⁴⁵ As such, it presents the reverse problem to all the other unclean birds in the list.

(iv) Insects

Finally, the insects. The category of insects presents commentators with similar difficulties to those we have already seen for birds, in (iii) above. For Tigay "the permitted and forbidden winged animals are not distinguished by easily observable external characteristics. Hence, no general rule is given for distinguishing among them,

⁴⁵ What about the hoopoe? It is further removed from the stereotypical image of the clean bird than other birds on the list because not only is it omnivorous, it also has a reputation for being particularly smelly, making its nests out of dung and rubbish. However, it is not as far removed from the clean paradigm as the bat because it still does at least still look like a bird.

but only a list identifying the impure ones.”⁴⁶ But as noted in relation to birds, there is nothing “only” about a list when it illustrates an assumed paradigm. A narrative perspective would therefore view things differently; the list exists *because* there is a paradigm.

Houston, once again, seems to adopt a semantic approach to this category by claiming insects were included because of the lawgiver’s “impulse for comprehensiveness....”⁴⁷ By contrast, a narrative reading would not expect an exhaustive account. Further, he states that Deut 14:19, which he sees as “the original form of the prohibition,”⁴⁸ had the unfortunate effect of excluding locusts, which were an important supplement to the Israelite diet. However, the idea that Deut 14:19 fails to permit locusts is, again, an example of a semantic approach. It assumes the verse is to be read as a ban on all “winged insects,” without qualification. This is contrary to the narrative reading of “all”, advanced in (ii) above. Houston also assumes that Deut 14:19 conflicted with customary dietary practice. This again contrasts with my approach which sees narrative typifications as drawing on social knowledge, which, in this case, *would* include the desirability of eating locusts as a source of concentrated protein (see IV below). In my view, there is no need to see Deut 14:19 as being ‘reversed’ by the subsequent law in *Leviticus*, as *per* the manner of a modern statute. Both Lev 11 and Deut 24 make sense against a shared body of social knowledge, which includes customary dietary practice.

⁴⁶ Tigay, *Deuteronomy*, 139.

⁴⁷ Houston, *Purity*, 236.

⁴⁸ *Ibid.*

In setting out a narrative approach to this category, we will concentrate on Lev 11:20-23 because it is more detailed than Deut 14:19-20, which has already been discussed, in II above. The text begins with an explicit paradigm case of the unclean insect; that which goes “*on all fours*” (Lev 11:20; italics added). However, if we flip this around, it provides an implied paradigm of a clean insect, namely, something that flies around and “does not go on all fours.” As with the clean birds, Leviticus simply assumes this is part of the audience’s social knowledge. As we saw in II, above, this assumption is also taken for granted in Deut 14:20.

Lev 11:21 is interesting because, for the first time, we are told of an exception to the category of the unclean (“... among the winged insects that go on all fours *you may eat those that have jointed legs above their feet, with which to hop on the ground*”; italics added). ‘Leaping’ insects are potentially ‘hard cases’ because they, too, are ‘halfway house’ creatures. They ‘go upon all fours’ but can also get airborne for brief periods. So far in the food laws, we have been told that if a creature negates just one of the characteristics of the clean paradigm they are to be regarded as ‘unclean.’ We saw this was the case for land animals and aquatic creatures (and possibly even for birds as well). However, contrary to expectations, Lev 11:21 states that the leaping insects are *not* to be regarded as unclean. They are deemed to be sufficiently close to the paradigm of ‘clean flying things’ because they can get airborne. Another reason why they may be deemed close to the paradigm is because the classic example of ‘leaping’ creatures, locusts, are herbivorous. We have already noted the herbivorous paradigm for clean animals and birds in (i) and (ii), above.

Some scholars may have reservations about reading Lev 11:3, 9 and Deut 14:6, 9 as ‘narrative paradigms,’ or ‘typical images,’ when – at least on the surface – they provide definitional criteria which are not attached to a particular (animal or aquatic) paradigm or image. However my argument still stands because the ‘definitional criteria’ of Lev 11:3 and Deut 14:6 still make the implied audience think of *something*. Even today, definitional formulae do not exist purely as abstractions but function in relation to other things with which they are associated. Part of the justification for claiming this is that there is evidence, in biblical law, that rule elaboration and systematisation does not exclude wider, popular, associations. For example, Num 35:16 certainly has clear definitional criteria, so much so that David Daube⁴⁹ identified it as an example of the ‘diagnosis’ form. Yet the definitional element does not exclude the operation of ‘gut feelings,’ reflected in labeling the killer “a murderer.”

A critic might object that Lev. 11:9 and Deut. 14:9 are different, given their use of the word ‘all.’ However, we cannot exclude the possibility of applying a narrative rather than a semantic approach *even* in the presence of the word כָּל (“everything”). After all, there is no reason why we should be expected to take the word כָּל literally. Even today, if reference is made in *modern* legislation to “all” or “everything,” its meaning is quickly revised and restricted in the event of an unforeseen or atypical case. Accordingly, I contend that we can still talk about the dietary laws in terms of ‘narrative paradigms,’ or ‘typical images,’ when – at least on the surface – they provide definitional criteria.

⁴⁹ David Daube, *Ancient Jewish Law* (Brill, 1981), 100-106.

Before concluding this section we must acknowledge that positing a narrative approach to the biblical food laws raises certain questions about the development of legal drafting at this stage in the history of biblical law. We noted in I, above, that Jackson's conceptual model regarding biblical law and 'narrative' was developed in relation to the *Mishpatim*, or 'Covenant Code.' There, Jackson claims to find a relationship between narrative forms of sense construction and the oral underpinnings of the *Mishpatim*.⁵⁰ Jackson contends that this 'oral residue' is not completely overlaid, even when the stage of writing has been reached.⁵¹ The question arises whether we might find examples of such oral residue outside the *Mishpatim*. One might suppose that a priestly work such as *Leviticus* would be one of the less likely places in which to find such evidence, given the 'bureaucratic mode' of the priestly genre and its particular concern for classification. For example, the 'diagnosis' form noted by Daube, above, occurs only in Priestly sources showing the emerging importance of classification inasmuch as "the legal consequences are impliedly derived not directly from the facts, but from the categorization of the facts as falling within an accepted legal class."⁵² Indeed, Jackson himself cites Lev 11:4 as an example of the diagnosis pattern.⁵³ The movement from oral residue to classification could be regarded as part of a movement from one form of legal reasoning (concrete thinking) to another (abstract thought).⁵⁴

⁵⁰ Jackson, *Studies*, 70-92.

⁵¹ *Ibid.*, 93-113.

⁵² *Ibid.*, 96.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

If I am on the right lines in suggesting that the food laws are best understood as narrative paradigms then not only do we have examples of such cases in Lev 11 and Deut 14, we may also have an example of ‘oral residue’ evident, not only at the stage of writing, but also (in the context of *Leviticus*) at an advanced stage of legal reasoning as well.⁵⁵ My point is that, although the priestly text may reflect a more analytical approach – as befits the professional milieu and internal purposes of the priesthood⁵⁶ – we do not have to assume that this element of professional ‘group thinking’ or language completely overlays the concrete images underlying the classificatory rules. This means that we can still talk about the dietary laws in terms of ‘narrative paradigms,’ or ‘typical images,’ when – at least on the surface – they provide definitional criteria. In fact, in the form we have them, the dietary laws are interesting for our understanding of the possible development of biblical law inasmuch as they reflect concrete, customary norms *and* a classificatory schema. Perhaps – and this is a matter of conjecture – the

⁵⁵ I am grateful to Bernard Jackson for drawing this to my attention. Jackson himself has argued extensively for the notion of narrative underpinnings of analytical language, for example, Bernard S. Jackson, *Law, Fact and Narrative Coherence* (Liverpool: Deborah Charles Publications, 1988), 101-106; Bernard S. Jackson, *Making Sense in Jurisprudence* (Liverpool: Deborah Charles Publications, 1996), 199-200, 208, 240-245; and now also Bernad Jackson. 2013. “On the values of Biblical law and their contemporary application”, *Political Theology*, 14:602-618, 612, at n. 46.

⁵⁶ This is not to assume, however, that priestly writings are to be thought of as being directed *only* towards the priests: parts of *Leviticus*, for example, are said to be directed at the ‘person in the street’ who needs to know, for example, what sacrifice they are supposed to bring on what occasion (e.g. *Leviticus* 1-5).

food laws in *Leviticus* and *Deuteronomy* are an example of what happens when customary rules are presented with a bureaucratic ‘spin’?

To sum up, we have seen that whereas the biblical food laws in Lev 11 and Deut 14 are problematic when understood in semantic terms, they make very good sense when understood in narrative terms. I have proposed that their literary form should be understood as narrative ‘paradigm cases’, which includes binary oppositions. Their paradigmatic character can be seen in the way in which the food laws proceed by identifying certain characteristics of a taxonomic group which are then negated. Once established, the binary opposite is stated to identify the unclean, but this category is already implied in identifying the clean. This illustrates implied social knowledge which does not require the exhaustive listing of cases because the paradigm case of the clean creature has already done the work. The different categories build on each other which, in turn, assumes that the audience accumulates knowledge as the laws progress. As the categories accumulate so the audience can work out the laws for themselves on the basis of what they have already been told.

III. POSSIBLE SOURCES OF SOCIAL KNOWLEDGE

Having argued that the food laws make sense as narrative paradigms which depend on social knowledge, the question then arises as to what particular sources of social knowledge could make the various paradigm cases seem intuitively clear? Although nothing in my argument in I-II, above, depends on identifying such sources, it is worth considering this question. Apart from anything else it will remind us that narrative

paradigms do not simply arise from nowhere. It takes a particular worldview and mindset to make certain things appear 'natural' or 'obvious.'⁵⁷

Before going further, it is worth emphasising that I am using 'social knowledge' as an aspect of sense-construction. It is relevant to the 'thematic level' (one of the 'basic structures of signification') and helps us to make sense of data encountered at the 'level of manifestation'; viz. that which is presented to our senses and the particular meaning attributed to it. Social knowledge thus derives from the environment in which we live, being implicit in the 'level of manifestation' itself.⁵⁸ It is also organised narratively being commonly stored and transmitted as "(substantive) narrative stereotypes, themes, [and] images of typifications of action."⁵⁹

It goes without saying that 'the narrative organisation of material deriving from the environment' can include a great deal. It should be obvious, therefore, that when it comes to identifying possible sources of social knowledge that might be relevant, I am not ruling out any particular *sort* of data. All sorts of phenomena, including texts and traditions, could potentially be relevant in identifying the social knowledge that might have made the paradigm cases seem natural. However, it is not enough to posit that

⁵⁷ As Umberto Eco writes: "One (if not the most important) of the semiotic endeavours is to explain why something looks intuitive..." (Umberto Eco, *Semiotics and the Philosophy of Language* (London: Macmillan, 1984)), 9.

⁵⁸ Jackson, *Studies*, 25.

⁵⁹ Ibid.

such-and-such a phenomenon was part of the original audience's environment, and hence their social knowledge. That is not the relevant question. The question is whether *this* sort of social knowledge could plausibly be said to generate *this* set of narrative paradigms? This is quite a specific test, as we are about to see, thanks to a couple of examples.

I begin by drawing on data which leading scholars working and writing on the food laws have suggested is part of the social world inhabited by, or presupposed by, ancient Israelites.⁶⁰ First – and consistent with Mary Douglas' analysis – we could say that *empirical observation that certain creatures have a certain diet* was part of ancient Israel's implied social knowledge.⁶¹ But whilst this is undoubtedly true, I do not see

⁶⁰ It goes without saying that these scholars do not frame their theories in terms of the narrative method I have outlined. However, their attempts to find underlying 'principles' to the food laws makes claims, whether recognised or not, regarding the social knowledge of the original audience.

⁶¹ Mary Douglas, *Purity and Danger* (London: Routledge, 1966); and cf. also her subsequent iteration "Deciphering a Meal", *Daedalus* 101 (1972):61-81. For a thorough critique of both accounts see Seth D. Kunin (*We Think What We Eat*, JSOTSS 412, London: T&T Clark), 31-62. Douglas herself took different directions in her later work (Mary Douglas, "Atonement in Leviticus," *JSQ* 1993 1, 109-30; "The Forbidden Animals in Leviticus," *JSOT* 1993 59:3-23 and *Leviticus as Literature*, Oxford: Oxford University Press, 2000, 134-175) but these have not been persuasive (see recent critiques by Walter J. Houston, "Towards an integrated reading of the dietary laws of Leviticus", in *The Book of Leviticus: Composition and Reception* (eds. Rolf Rendtorff and Robert A.

how this could, in itself, make the narrative paradigms in the food laws seem intuitively clear. On purely empirical grounds a bat, for example, could not be ‘naturally’ regarded as unclean when it eats what clean birds eat. Second – and consistent with Milgrom’s ‘respect for life analysis’ – we could say that *some underlying sense of social values* (regardless of how ‘conceptual’ these might have been) was part of ancient Israel’s implied social knowledge.⁶² Certainly we find plenty of places where such concern is reflected in both Leviticus and Deuteronomy themselves. But I do not see how this sort of social knowledge could plausibly have generated the particular narrative paradigms we find in the food laws. How could ‘respect for life’ produce a classification that encourages killing most types of fish for food or that makes specific exception to allow the consumption of locusts? Third – and consistent with Houston’s claim that ancient Israelite sanctuaries were the locus for developing the classification of clean and unclean animals⁶³ – we could say that *ritual or sacrificial practices* were part of ancient Israel’s implied social knowledge. This claim too is incontestable. But again, this does not explain the paradigm cases of Lev 11 and Deut 14 since fish and insects were not offered for sacrifice in biblical Israel.⁶⁴ It does not adequately explain why *this* social knowledge would make *these* categories of clean and unclean seem intuitively clear.

Kugler; Leiden: Brill, 2003), 142-161, here 150-157 and Leigh M. Trevaskis (*Holiness, Ethics and Ritual in Leviticus* HBM 29 (Sheffield: Sheffield Phoenix Press, 2011), 71-79).

⁶² Milgrom, *Leviticus 1-16*, 718-736.

⁶³ Houston, *Purity*, 123.

⁶⁴ Trevaskis, *Holiness*, 244.

Fourth – and consistent with traditional readings which attempt to ground the distinction between clean and unclean creatures in some understanding of life in Eden⁶⁵ – we could say that *ancient Israel's own texts and traditions* were part of her implied social knowledge. If, as I claim, the implied audience uses their social knowledge to ‘fill in’ gaps in the food laws there is no reason why this should exclude textual or mythical knowledge drawn from the environment. Even it were to be argued that Genesis 2-3 played a significant role in biblical Israel's social knowledge⁶⁶ the notion that *this* background social knowledge could have generated *this* particular classification is harder to sustain.⁶⁷ How could Edenic imagery, of whatever sort, naturally produce these – and only these – classifications? If Genesis 1-3 is so foundational, why is killing *any* creature for food acceptable? Should we not expect fruit (of whatever sort) to be taboo? It simply does not account for the detail in a consistent manner.

My provisional conclusion, then, is that none of the sources of social knowledge that might be suggested by traditional approaches are plausible candidates for the interpretation of the narrative paradigms. Nevertheless, we still need to identify a

⁶⁵ E.g. Wenham, *Leviticus*, 184, Evan M. Zuesse, “Taboo and the Divine Order,” *JAAR*, 42 (1974):482-504, 494 and Trevaskis, *Holiness*, 239.

⁶⁶ E.g. Trevaskis, *Holiness*, 93-101. However, whilst some interpreters might regard the tree of life in *Proverbs*, for example, as deriving from Gen. 2-3, most interpreters do not see it this way; instead regarding any such derivations, where they might exist, as late (as in the possible case of *Sirach* and *Wisdom of Solomon*).

⁶⁷ The criterion of vegetarianism hardly applies to herbivores which are deemed unclean, such as the rabbit.

plausible source. It is not enough to assert (*per* Nelson) that the clean creatures are “conventional”⁶⁸: the question is *why* are they conventional? We should recognise that when we make claims about the rationale for distinguishing between clean and unclean creatures, we are making assumptions, and claims, about the nature and content of biblical Israel’s social knowledge. Therefore, the traditional question of ‘what is the basis of the distinction between clean and unclean creatures?’ should be prefaced by asking, ‘*what is it about these clean and unclean images that makes them appear dominant, and typical, in the context of biblical Israel’s social knowledge?*’

Whatever else may have contributed to biblical Israel’s social knowledge, it is certainly plausible to suggest that the physical world of ancient Israel is a relevant, if not the dominant, factor. Israel’s interaction with her physical environment is an eminently reasonable context for thinking about the sort of social knowledge that might give rise to a distinction between clean and ‘unclean.’ Some scholars, notably Eugene Hunn, have acknowledged the role of the physical environment in shaping Israel’s consciousness regarding the food laws;⁶⁹ however, in the rest of this section, I want to link this to an understanding of the food laws as paradigm cases.

Looking, first, at the land animals, it is easy to see how, among farmers, the stereotypical image of a clean animal would be ‘one that eats grass’ because it is the sort of animal they have most contact with. Accordingly, herbivores will ‘naturally’ be seen as the

⁶⁸ Nelson, *Deuteronomy*, 177.

⁶⁹ Hunn, “Abominations.”

‘norm.’⁷⁰ If one is developing a taxonomic system which distinguishes between clean and unclean it follows that clean animals will be herbivorous animals.⁷¹ The narrative paradigm is typical precisely because it reflects day-to-day engagement with the environment. Indeed, the order of clean animals in Deut 14:4-5 may reflect the fact that the three kinds of edible domesticated animals (“the ox, the sheep, the goat”) give rise, by association, to the seven kinds of edible wild animals (“the deer, the gazelle, the roebuck, the wild goat, the ibex, the antelope, and the mountain sheep”). The background social knowledge here includes social practices, such as nomadic herding, which are an efficient way of operating environmentally. The paradigm case has intuitive appeal, in this context. And since the observable characteristics of the ‘norm’ regarding livestock are animals that have cleft hooves and chew the cud (Lev 11:3 = Deut 14:6) it follows, logically, and by implication, that animals which do not have cleft hooves *and* do not chew the cud are ‘unclean.’ On this assumption, carnivorous animals are labelled unclean because they are the binary opposite of a paradigm which is normative *only because it reflects everyday practice*. In keeping with this idea, the unclean animals of Deut 14:7 (the camel, the rabbit and the coney) appear in order of how far removed they are from the paradigm of everyday life.

⁷⁰ Cf. the similar view of Douglas, *Purity and Danger*, 53-55, Houston, *Purity*, 110, 118 and J. R. Porter, *Leviticus* (Cambridge: Cambridge University Press, 1976), 84.

⁷¹ As Hunn notes: “It is no accident that animals which chew their cud also have hooves – both characteristics favour adaptation to open grassland habitats, which in turn is associated with herding behaviour” (“Abominations,” 114).

In this respect, the rules may reflect an underlying distinction between ‘domesticated animals’ and ‘wild animals.’⁷² If so, it would not be altogether surprising. A similar opposition is found in the Covenant Code of Exodus (as well as in Roman and English law), which contrasts the case of the ‘wild’ goring ox (Exod 21:28-32, 35-36) with that of ‘domesticated’ depasturation (Exod 22:4).⁷³ The contrast between ‘tame’ and ‘wild’ animals might have particular resonance within Priestly circles because it evokes images from the primeval history. This may be the appropriate connection to make with the Eden story. Vegetarianism correlates with the original Adamic regime (Gen 2:18-20; where arguably all animals were ‘tame’, at least to Adam). It also contrasts with the Noahide covenant (Genesis 9:2-3); specifically, its permission of animal flesh and the threat to humans from wild animals.⁷⁴

Turning to the aquatic creatures, it is possible that the paradigm of the clean fish may be typical because ‘fins and scales’ reflect the kind of fish the Israelites were used to. In that sense, ‘fins and scales’ are the aquatic equivalent of ‘hooves and cud’ for land animals. This is a reasonable suggestion because this categorisation does in fact typically represent the vast majority of fish. Against this background, fish with ‘fins and scales’ are intuitively going to be seen as the ‘norm.’ Again, the paradigm appears typical because it reflects day-to-day engagement with the environment. Finally, turning to

⁷² I am grateful to Bernard Jackson for drawing this to my attention.

⁷³ Bernard S. Jackson, “Liability for Animals: An Historico-Structural Comparison,” *International Journal for the Semiotics of Law* 24 (2011):259-289, here 279-80; Jackson, *Studies*, 193.

⁷⁴ I owe this point to Bernard Jackson.

birds and insects, it is possible, once again, that the narrative paradigm is typical because it reflects everyday interaction with the physical world and its constraints. The importance of material concerns in explaining why things are paradigmatic extends even to making an exception of hopping insects.⁷⁵ Such insects may have been an essential source of protein, especially during a plague of locusts.⁷⁶ Therefore, the locust is clean, *despite* its characteristics. The locust is thus an example of how an object is interpreted to fit the paradigm, rather than the paradigm being interpreted to fit the object.⁷⁷ After all, narrative paradigms are not objective constructs; they are intrinsic only to the social knowledge that gives rise to them. Accordingly, there is no reason why an object such as the locust, cannot be interpreted creatively to bring it into the category of ‘clean’, if the economic or social reasons for doing so are sufficiently strong.⁷⁸ This is what we would expect if the food laws are narrative paradigms that exemplify particular material practice.

⁷⁵ Hunn, “Abominations,” 112, notes that locusts share with “ruminant ungulates the property of concentrating protein with exceptional efficiency....”

⁷⁶ Kunin (2004, 88). Cordelia Hebblethwaite, “Eating locusts: the crunchy kosher snack taking Israel by swarm.” n.p. [cited 12 June 2015]. Online: <http://www.bbc.co.uk/news/magazine-21847517.htm>.

⁷⁷ Adapting Kunin’s formulation (2004, 34) on the relationship between an ‘object’ and a ‘system.’

⁷⁸ Cf. Kunin (2004, 48). Others have taken the view that the classification of locusts reflects Israelite social practice; Houston, *Purity*, 117; Milgrom, *Leviticus 1-16*, 666 and E. B. Firmage, “The biblical dietary laws and the concept of holiness,” in *Studies in the Pentateuch* (VTSup 41, ed. J. A. Emerton; Leiden: E. J. Brill, 1990), 177-208, here 192.

To sum up, I suggest that biblical Israel's social knowledge is shaped by multiple social and environmental factors that in turn affect the categorisation of clean and unclean creatures. It is human engagement with the material environment that makes the narrative paradigms we find in the food laws appear dominant, and typical.

IV. THE SOCIAL FUNCTION OF THE FOOD LAWS

So far I have argued that the literary form of the biblical food laws should be understood as narrative 'paradigm cases.' This brings us, then, to our final question: what is the social function of the biblical food laws?⁷⁹ What is the purpose of a compositional structure of paradigm cases and binary oppositions? These questions can, of course, be located in an extremely broad discussion regarding the possible range of social functions that different biblical laws may have entailed. Can we be more precise regarding the social function of Lev 11 and Deut 14?

I believe we can. We noted, in I above, the use of paradigm cases in Exod 22:2-3 (MT 22:1-2). As Jackson sees, Exod 22:2-3 (MT 22:1-2) provides a conclusive, objective test

⁷⁹ Scholars such as Hartley (163) have proposed that the laws' social function was to be "a mighty force of solidarity" by "developing deep in [the Israelites'] consciousness [at meals] an attitude of obedience to God." At this level of generality, Hartley is surely correct. In this section, however, I want to consider more precisely the question of *how* the biblical food laws structure social consciousness to produce certain social effect (i.e. the consumption of some foods and not others).

that enables the kin to know, without recourse to adjudication, whether the killing was justified or not.⁸⁰ Jackson has further argued that a significant number of the individual rules of the *Mishpatim* may be similarly characterised as ‘self-executing’ rules, viz. rules which are formulated in such a way as to reduce the need for third-party adjudication,⁸¹ including: Exod 21:2-6; Exod 21:18-19; Exod 21:35;⁸² Exod 22:4/MT 22:3⁸³ and Exod 22:3/MT 22:2b.⁸⁴ Nor are such examples unique to the *Mishpatim*; Jackson also points to cases outside the *Mishpatim*, including redress for homicide (Deut. 19:6, 12; Num. 35:25)⁸⁵ whilst I have noted instances in *Leviticus* (e.g. the rental value of land; Lev 25:15–17).⁸⁶ The point about such self-executing narrative rules is that they are manifestations of practical wisdom. They are pragmatic ‘bright-line’ rules that provide an instant resolution of the problem at hand. Might the same be true of the food laws of Lev 11 and Deut 14?

⁸⁰ Jackson, *Studies*, 82-83.

⁸¹ See generally Jackson, *Wisdom-Laws*, 29-30.

⁸² Bernard S. Jackson, “Law, wisdom and narrative,” in *Narrativity in Biblical and Related Texts*, eds. G. J. Brooke and J.-D. Kaestli; Leuven: Leuven University Press, 2000, 31-51, here 31.

⁸³ Exod 22:1-4 (MT 21:37-22:3; Jackson, *Wisdom-Laws*, 300-301).

⁸⁴ Jackson, *Studies*, 82-87.

⁸⁵ Jackson, *Studies*, 82.

⁸⁶ Jonathan Burnside, *God, Justice and Society: Aspects of Law and Legality in the Bible* (Oxford: Oxford University Press, 2011), 181.

To answer this we could begin by imagining a society like ancient Israel, which has a body of social knowledge about what can and cannot be eaten, informed by the material environment. The lawgiver has the pragmatic task of finding the most effective way of communicating this to as many people as possible. The legislator could begin with some clearly-worked out paradigms (as in Lev 11 and Deut 14, in relation to land animals and aquatic creatures). But once the lawgiver has established these, the rest can be worked out quite straightforwardly. The important thing is to get the paradigm of the land animals right first (in this case, the characteristics of ‘hooves and cud’) and this needs to be followed by the paradigm for aquatic creatures (here, the characteristics of ‘fins and scales’). The latter makes sense in light of the first category, but it is necessary to understand this as well, because the sequence builds.⁸⁷ However, once these categories are in place, the audience does not really need to think too hard about the next category (the birds), and by the time the lawgiver reaches the insects, the laws have had such an educative effect, that, by the end of this category, the audience can even cope with an exception. The economy is breathtaking. As a way of transmitting knowledge, it is extremely effective.

In terms of what is actually ‘posited’ in the food laws, the only arbitrary element⁸⁸ is the first clear statement regarding clean and unclean land animals and the second statement regarding aquatic creatures. This is why most attention is paid to these

⁸⁷ Cf. Houston who claims that the sub-section on aquatic creatures is “highly redundant” in Leviticus (*Purity*, 40).

⁸⁸ For arbitrariness in self-executing rules see Jackson, *Studies*, 83-87.

categories.⁸⁹ It is important that these paradigms are firmly fixed in the minds of the audience. Once they are in place, the next case follows from them, until the audience reaches the insects, and then the exception. Information drops away as the paradigm is understood. Within a short time, you can teach everyone what to eat – without making a meal of it. The food laws of Lev 11 and Deut 14 provide conclusive, objective, tests about what is and is not edible that can be, potentially, applied by everyone.⁹⁰ Indeed, the relative straightforwardness of the food laws is, I suggest, evidence of the fact that they

⁸⁹ Although it makes no difference to my argument, the order of categories (animals/aquatic creatures/birds/insects) may reflect the fact that land animals and fish are more significant food sources than birds and insects (unless they are locusts, in which case they are given particular attention). If so, it is further confirmation of the practical nature of the regulations: the most didactic teaching is given to the things people are most likely to kill for food.

⁹⁰ We may ask: who is the audience who is reading the food laws in Deut. and especially Lev. 11? The dominant view among scholars is that the audience is specialist with particular expertise in writing and interpreting written material. Nevertheless, even élite literary readers of the law communicated orally to a wider audience, composed of many types of people who could thus have been enabled to interpret and apply the food laws for themselves. See generally David M. Carr. 2005. *Writing on the Tablet of the Heart*. Oxford: Oxford University Press, 111-173; Jackson, *Wisdom-Laws*, *passim*; James W. Watts. *Reading Law* (TBS 59; Sheffield: Sheffield Academic Press, 1999), *passim*.

are directed to the general public, and not simply to ‘experts.’⁹¹ They can thus be seen as further examples of self-executing narrative rules in biblical law.

And the food laws *are* only ‘rules of thumb.’ There is no reason why the list of ‘clean/unclean’ creatures should map *exactly* onto Israel’s experience of what food is, in fact, enjoyable. If the priestly lawgiver is trying to educate the masses as simply and effectively as possible, it is better to have a few ‘false negatives’ than to have ‘false positives.’ In other words it is better to call unclean something which is nutritionally beneficial, than to call clean something which is nutritionally harmful.⁹² In this respect, too, the food laws can be seen as self-executing rules inasmuch as they provide ‘rough and ready’ solutions.⁹³ A few ‘false negatives’ is the price to be paid for having everyday rules which equip people to make judgements for themselves and reduce the need for ‘food experts’, found in all traditional societies, to tell people what they can and can’t eat.⁹⁴

⁹¹ Albertz sees the food laws as examples of “detailed casuistry” (*History*, 408) whilst Meshel, “Pure, Impure, Permitted, Prohibited”, wonders why the authors developed a “more complicated and less practicable” (here at 40) system. On the contrary, I do not see what is so difficult about it.

⁹² This would explain why, as Houston notes, but does not explain, “a number of relatively common food species were excluded” (*Purity*, 235), such as catfish.

⁹³ Cf. Exod 21:35; Jackson, *Studies*, 77-80, 83.

⁹⁴ Milgrom, *Leviticus 1-16*, 699 claims, on the basis of the language used in Leviticus 11, that the food laws are not influenced by wisdom teachings. The language may well be different but in terms of their overall purpose and similarity to other parts of biblical

Of course, from a practical perspective, the dietary laws should enable people to consume as much of what they would like to eat, from what is available in their environment. But a lawgiver cannot educate on that basis. There have to be clear and simple rules which map onto what is available for food, even though it might not include absolutely everything. Nor did you *have* to eat whatever fell within the paradigm of being 'clean.'⁹⁵ The brilliance of the food laws is how they strike a balance between the need to be edible *and* straightforward, matching, so far as possible, normal eating practice and hallowing the mundane. The food laws do not therefore present themselves as fictional or utopian. On the contrary, they consist of a rationalising structure of paradigm cases and binary oppositions which is pragmatic and easy to teach.

In this way, the entire substantial content and compositional strategy of the biblical food laws can be seen as an exercise and an education in practical wisdom. Their genius is that they are so practically useful. Their didactic strength is such that the audience can reel off any creature and be able to tell, instantly, whether it is clean or 'unclean.'⁹⁶

law, which are concerned with mediating practical wisdom, I believe it is not correct to claim that these texts are immune from wisdom influence.

⁹⁵ The designation of paradigm clean creatures could well have been broader than cultural practice. Donkeys, apparently, were clean, though there is no particular reason to think people in biblical Israel ate them.

⁹⁶ This legislative and literary achievement is all the more remarkable in the light of the difficulties we have, in modern society, of communicating what food we should eat.

Imagine what Moses would have made of the duck-billed platypus – a bizarre combination of animal (it's got fur), fish (it lives in water) and bird (it lays eggs). But an Israelite audience would have known straightaway. It is obviously unclean because it is a 'halfway-house' creature in all respects. We do not have to say, for example, 'the male platypus has venomous spurs so it's unclean because its venom rhetorically reminds us of the serpent in Eden.' No. Once the audience has the first couple of paradigms, it has all it needs to make sense of anything. This way of reading the text goes against the grain of most scholarly readings of Leviticus which tend to characterise the text as ideal rather than normative and as lacking any basis in Israelite society.⁹⁷

To sum up, I contend that reading the food laws as narrative paradigms makes sense on a number of levels. First, it explains precisely those aspects of the text which commentators have otherwise found frustrating or contradictory. Second, it explains why certain creatures, such as the pig, are specifically labelled as unclean because they are examples of hard cases that enable the rules to be clearly established. Third, it

Even simple messages like "five pieces of fruit or vegetable a day" are hard to get across, not to mention how much alcohol is safe to drink. Most people in the United Kingdom don't know how many units of alcohol they drink, what is a little, or a lot, and hundreds of people die as a result. Even in a modern context, there is a great deal to be said for a 'rule of thumb' approach, such as we find in biblical law, which people can clearly understand and operate, beyond the immediate case.

⁹⁷ E.g. Meshel, "Pure, Impure, Permitted, Prohibited", 32-42 avers "it is doubtful that Lev 11 ever served as a normative basis for Israelite society at *any* given historical period" (here at 39, italics added).

accounts for the boundaries of the different categories because they reflect paradigmatic social knowledge. Fourth, it explains the content of the food laws by connecting each category to non-structural materialist and economic concerns. Fifth, it explains the presence of ‘false negatives’ as a necessary trade-off between breadth of diet and clear teaching whilst, finally, it is consistent with other biblical laws which are rooted in practical wisdom.

V. CONCLUSION

The food laws of Leviticus and Deuteronomy have a different rationalising structure to modern law. Although from a semantic perspective they strike us as vacuous, elliptical and incomplete, my alternative reading contends that the biblical food laws target typical or paradigmatic cases aimed at a high-context society in which information is shared and internalised. This shared social knowledge raises the question of how the common environment of ancient Israel would make the categories intuitively clear. The laws take the form of narrative paradigms which make sense because they reflect day-to-day engagement with the environment. The paradigm cases identify certain characteristics of a taxonomic group, which are then negated. The effect is to impart a complex body of knowledge about what can and cannot be eaten in an economical, unambiguous and practical manner. The laws build on each other, enabling the audience to accumulate knowledge as they progress through the different categories. In this way, the very construction of the categories clean and unclean – and hence the structure and presentation of the laws themselves – is shaped by practical wisdom. They enable people to make firm distinctions based on visual images which can be easily applied, at a popular level. This is consistent with self-executing narrative rules elsewhere in biblical law.

Lev 11:3-23	Deut 14:3-20
	List of 'clean' land animals (vv. 4 – 5)
Explicit paradigm of 'clean' land animal (v. 3)	Explicit paradigm of 'clean' land animal (v. 6)
Explicit paradigm (of borderline cases) + examples (vv. 4 – 8)	Explicit paradigm (of 'unclean' land animal) + examples (vv. 7 – 8)
Explicit paradigm of 'clean' aquatic creatures (v. 9)	Explicit paradigm of 'clean' aquatic creatures (v. 9)
Explicit paradigm of 'unclean' aquatic creatures; no examples (vv. 10 – 12)	Explicit paradigm of 'unclean' aquatic creatures; no examples (v. 10)
	"You may eat all 'clean' birds" (v. 11)
List of 'unclean' birds (vv. 13 – 19)	List of 'unclean' birds (vv. 12 – 18)
Explicit paradigm of 'unclean' insects; no examples (v. 20)	"All winged insects are 'unclean' for you..." (v. 19)
Exception: 'clean' insects + examples (vv. 22-23)	"All clean winged things you may eat" (v. 20)

Table 1: Parallels between Lev 11:3-23 and Deut 14:3-20 (structural similarities shaded grey)